

NO. 23686

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

RAYMOND J. GALLANT, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(TRAFFIC NO. 99-371536)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Moon, C.J., Levinson, Nakayama, and Ramil, JJ. and
Acoba, J., Dissenting)

Upon consideration of plaintiff-appellee State of Hawaii's motion for reconsideration of the summary disposition order filed on July 11, 2002, the papers in support, and the record and files herein, and because of this court's holding in State v. Jendrusch, 58 Haw. 279, 281, 567 P.2d 1242, 1244 (1977), that the proper remedy for a conviction based on an improperly charged offense is to reverse the conviction, and because this court need not address the status of convictions that are not appealed pursuant to Hawai'i Rules of Appellate Procedure Rule 28(b)(4),

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i,

Bryan K. Sano, Deputy
Prosecuting Attorney,
for plaintiff-appellee
on the motion

I disagree with the order to deny reconsideration because denial is inconsistent with this court's recent decision in State v. Sprattling, No. 22501, slip op. (Hawai'i Sept. 17, 2002).